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JOURNAL

OF THE

HOUSE OF REPRESENTATIVES

OF

THE TERRITORY OF OREGON;

BEING A

SPECIAL SESSION,

BEGUN AND HELD

AT SALEM, JULY 26, 1852.

IN THE 77TH YEAR OF THE INDEPENDENCE OF THE U. STATES.

OREGON.

ASAHEL BUSH, TERRITORIAL PRINTER.

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JOURNAL
OF THE
HOUSE OF REPRESENTATIVES.

SALEM, MONDAY, July 26th, 1882.

This being the day designated in the Governor's Proclamation of June 24th, ultimo, for a meeting of a special session of the Legislative Assembly of the Territory of Oregon, at 10 A. M.

On motion of Mr. Anderson,
The House came to order by electing Mr. Harding Speaker pro tem.

On Motion of Mr. Avery,
Richard J. White was appointed Clerk pro tem.

On motion of Mr. Wait,
The chair appointed a committee of three to ascertain the names of the members elect of the House of Representatives.

The Chair appointed Messrs. Wait, Anderson and Avery as said committee.

On Motion of Mr. Anderson,
The House adjourned until 2 P. M. this day.

AFTERNOON SESSION—2 P. M.

The House met pursuant to adjournment.

Mr. Wait, from the committee appointed to ascertain the names of the members of the Legislative Assembly, reported said names as follows, viz.

Behton—J. C. Avery, G. E. Cole.

Clackamas—Wm. T. Matlock, A. E. Wait, Lot Whitcomb.

Clatsop—John A. Anderson.

Clark and Lewis—F. A. Chenoweth.

Douglass—Curtis. (Absent.)

Jackson—John R. Hardin,

Lane—Thomas N. Aubrey.

Linn—James Curl, Royal Cottle.

Marion—B. F. Harding, Benj. Simpson, Jacob Consor.

Polk—J. M. Fulkerson, H. N. V. Holmes.

Umpqua—A. C. Gibbs.

Thurston—Isaac N. Eby.

Yamhill—John Richardson, F. B. Martin, John Carey.

Washington—Benjamin Stark, Milton Tuttle, Israel Mitchel.

On motion of Mr. Cole,

Said report was accepted.

On motion of Mr. Stark,

Ordered that the Secretary be invited to appear and administer the oaths of qualification to the members elect. Whereupon the clerk was directed to deliver said invitation. The clerk having reported the absence of the Secretary from his rooms.

On motion of Mr. Anderson,

Samuel Parker, Esq., justice of the peace in and for Marion county and Salem precinct, was requested to administer said oath.

The oath of qualification was then administered to the members elect by said justice of the peace.

On motion of Mr. Cole,

The House proceeded to the election of Speaker by ballot.

Mr. Fulkerson nominated Benj. F. Harding, whereon Mr. Holmes was called to the chair.

Mr. Simpson nominated J. R. Hardin, who declined the nomination.

The chair appointed Messrs. Consor and Cole to act as tellers.

The votes having been counted, the following was the result—

Whole number of votes cast	24
Benj. F. Harding received	15
J. R. Hardin	4
A. C. Gibbs	2
Blanks	3

Whereupon Mr. Harding was declared duly elected Speaker, and being conducted to the chair by Messrs. Cole and Consor, returned thanks to the House.

The House then proceeded to the election, by ballot, of chief clerk.

Mr. Anderson nominated R. J. White, of Lewis county.

Messrs. Avery and Hardin were appointed to act as tellers.

The tellers reported the result of the ballot as follows—

Whole number of votes	24
Richard J. White received	21
Blanks	3

Whereupon Richard J. White was declared duly elected chief clerk of the House.

The House proceeded to the election of assistant clerk.

Mr. Stark nominated T. F. M'Patton, of Salem.

Mr. Anderson nominated J. C. Peebles, of Marion county.

Messrs. Stark and Gibbs were appointed tellers, who reported the result of the ballot as follows—

Whole number of votes cast

23

J. C. Peebles

18

T. F. M'Patton

6

T. B. Micou

1

Blanks

3

Whereupon J. C. Peebles was declared duly elected.

The House proceeded to the election of enrolling clerk.

Messrs. Simpson and Wait acted as tellers.

Mr. Hardin nominated Columbia Sims, of Jackson county, and the votes having been counted, it appeared that C. Simms was elected enrolling clerk.

The House proceeded to the election of sergeant-at-arms.

Mr. Avery suggested the name of Albert Zieber, of Oregon City.

Messrs. Chenoweth and Wait were appointed tellers.

The votes having been counted, it appeared that A. Zieber was duly elected sergeant-at-arms.

The House proceeded to elect a door-keeper.

Mr. Curl nominated T. T. Thomas of Linn county.

Messrs. Eby and Curl were appointed to act as tellers.

The vote being counted, it appeared that T. T. Thomas was duly elected.

On motion of Mr. Avery, Samuel Parker, Esq. was requested to administer the oath of office to the several officers elect of the House.

Whereupon Mr. Parker administered the oath of office to the several officers elect, viz:

Mr. Speaker, Chief Clerk, Enrolling Clerk and Sergeant-at-Arms.

The Assistant Clerk and Door-Keeper elect being both absent.

On motion of Mr. Cole,

A committee of three was appointed by the Speaker, to report rules for the government of the House during the present session, consisting of the following members, viz:

Messrs. Cole, Eby and Gibbs.

Mr. Stark offered the following resolution, which

On motion of Mr. Avery,

Was adopted.

Resolved, That the Council be informed that the House of Representatives has been organized by the election of B. F. Harding, of Marion, Speaker, R. J. White, Chief Clerk, J. C. Peebles, Assistant Clerk, Columbia Sims, Enrolling Clerk, A. Zieber, Sergeant-at-Arms, and T. T. Thomas, Door-Keeper, and is now ready to proceed to business.

The following message was received from the Council by their clerk, Mr. Terry,—

Mr. SPEAKER:—I am directed by the President of the Council to inform you, that the Council has organized by electing M. P. Deady, Pres-

ident, and Chester D. Perry, Chief Clerk, and are now ready to do business.

On motion of Mr. Hardin,
The rules of last session were adopted for the government of the House till the committee on rules deliver their report.

Mr. Cole, from the committee to report rules for the government of the House, reported,

That the rules of last session were adopted for the government of the present, with the following amendment:

Amend rule 8 by inserting after the word "each," the following:

"Except the committee on the judiciary, which shall consist of five members."

On motion,
The report was accepted.

On motion of Mr. Consor,
The House adjourned until 9 A. M. to-morrow.

THURSDAY, 9 A. M.

The House met pursuant to adjournment.

The roll being called, the following members answered to their names,

Messrs. Anderson, Avery, Aubrey, Carey, Cole, Chenoweth, Curl, Cot-
tle, Consor, Eby, Fulkerson, Gibbs, Holmes, Hardin, Martin, Matlock,
Mitchell, Richardson, Stark, Simpson, Tuttle, Wait, Whitcomb and
Mr. Speaker.

Absent, Mr. Curtis.

The journal of yesterday was read and approved.

The report of the committee appointed to draught rules for the gov-
ernment of the House was called for, whereupon the following was
read.

RULE 1. The Speaker shall take the chair every day precisely at the
hour to which the House shall have adjourned on the preceding day.
He shall immediately call the members to order, and on the appearance
of a majority of the members, shall cause the journals of the preceding
day to be read.

RULE 2. Seven members with the Speaker, or eight members in his
absence having chosen a Speaker *pro tem.*, shall be authorized to call
the House, compel the attendance of absent members, make an order for
their fine and censure, and may adjourn.

RULE 3. The Speaker shall preserve order and decorum, may speak
to points of order in preference to other members, rising from his seat for
that purpose, and shall decide questions of order, subject to an appeal to
the House by any two members, on which appeal no member shall speak
more than once, unless by leave of the House.

RULE 4. The Speaker shall rise to put a question, but may state it
sitting.

RULE 5. Questions shall be distinctly put in this form, to wit:—As

many as are of opinion that (as the question may be,) say aye; and after the affirmative voice is expressed—as many as are of the contrary opinion, say no. If the Speaker doubt, or a division is called for, the House shall divide—those in the affirmative of the question shall first rise from their seats, and afterwards those in the negative.

RULE 6. The Speaker shall have a general direction of the House of Representatives; room, he shall have a right to name any member to perform the duties of the chair, but such substitution shall not extend beyond an adjournment; he shall have the right to name any member to bear messages to the Council, and to appoint all committees, subject to additional members, to be added upon motion.

RULE 7. The Speaker shall vote in all elections by ballot, and when the ayes and noes are called for, he shall vote, his name being called last, and in case of an equal division, the question shall be lost, and upon all other questions where the House is equally divided, he shall give the casting vote, or where his vote would make an equal division, he shall vote upon the call of any member, and in case of such division, the question shall be lost.

RULE 8. Fourteen standing committees, to consist of three members each, except the committee on judiciary, which shall consist of five members. A committee on elections, a committee on ways and means, a committee on education, a committee on the judiciary, a committee on claims, a committee on military affairs, a committee on roads and highways, a committee on engrossed bills, a committee on enrolled bills, a committee on Indian affairs, a committee on commerce, a committee on printing, a committee on corporations, a committee on counties. It shall be the duty of the committee on elections to examine and report upon the certificates on elections and other credentials of the members returned to serve in the House, and to take into consideration all other matters relative to contested elections, which may be referred to them. It shall be the duty of the committee on ways and means to inquire into the financial concerns of the Territory, and to make a detailed report of the same, and to take into consideration all such other business as may be referred to them; and each of the other committees shall take into their consideration all subjects and matters which may be referred to them.

RULE 9. In case of any disturbance or disorderly conduct in the lobby, the Speaker (or chairman of the whole House) shall have the power to order the same to be cleared.

RULE 10. No committee shall sit during the sitting of the House without special leave, and all writs, warrants, and subpoenas issued by order of the House shall be under the hand and seal of the Speaker, attested by the clerk.

RULE 11. All questions relating to the priority of business to be acted on shall be decided without debate.

RULE 12. After the journals are read, business shall be disposed of in the following order:—

1. Petitions, memorials and remonstrances.
2. Reports from standing committees.
3. Reports from select committees.
4. Propositions and motions.
5. Second reading of bills, &c.

6. Engrossed bills read a third time.
7. Bills, reports, and other business lying on the table.
8. Bills, and other business from the Council.
9. Other business of the Council.
10. The orders of the day.

RULE 13. The Speaker shall, upon each day, announce to the House the business in order, agreeably to the preceding rule. And no business shall be taken up or considered, until the class to which it belongs shall be declared to be in order; but reports from the Governor may be read at any time.

RULE 14. When any member is about to speak in debate, or deliver any matter to the House, he shall rise from his seat and respectfully address himself to Mr. Speaker, and shall confine himself to the question under debate, and avoid personality. And no member shall impeach the motive of any other member's vote or argument.

RULE 15. If any member, in speaking or otherwise, transgress the rules of the House, the Speaker shall, or any member may call to order; in which case the member so called to order shall immediately sit down, unless permitted to explain; and the House shall, if appealed to, decide the case, but without debate. If there be no appeal, the decision of the chair shall be submitted to. If the decision be in favor of the member called to order, he shall be at liberty to proceed; if otherwise, and the case require it, he shall be liable to the censure of the House.

RULE 16. If any member be called to order for words spoken in debate, the person calling him to order shall repeat the words excepted to; and they shall be taken down in writing at the clerk's table; and no member shall be held to answer, or be subject to the censure of the House, for words spoken in debate, if any other member has spoken; or other business has intervened, after the words are spoken; and before exception to them shall have been taken.

RULE 17. When two or more members happen to rise at once, the Speaker shall name who is the first to speak.

RULE 18. No member shall speak more than twice to the same question without the leave of the House, nor more than once until every member choosing to speak shall have spoken.

RULE 19. While the Speaker is putting the question, or addressing the House, no member shall walk across or out of the house, nor when a member is speaking shall any entertain private discourse, or pass between him and the chair.

RULE 20. No member shall vote on any question, in the event of which he is immediately and particularly interested, or in any case when he was not within the bar of the house when the question was put; and when any member shall ask leave to vote, the Speaker shall propound to him the question—were you within the bar when your name was called?

RULE 21. No member shall be permitted to record his vote on either side of any question, unless he was present in the House at the time such question was put, unless by unanimous consent of the House.

RULE 22. Upon a division and count of the House on any question, no member without the bar shall be counted.

RULE 23. Every member who shall be in the House when the ques-

tion was put, shall give his vote, unless the House, for special reasons, shall excuse him. All motions to excuse a member from voting shall be made before the House divides, or before the call of the yeas and nays is commenced, and any member requesting to be excused from voting, may make a brief verbal statement of the reasons for making such request; and the question shall then be taken without further debate.

RULE 24. When any motion is made and seconded, it shall be stated by the Speaker, or being in writing, it shall be handed to the Chair, and read aloud before debated.

RULE 25. Every motion shall be reduced to writing, if the Speaker or any member desire it.

RULE 26. After a motion is stated by the Speaker, and read, it shall be deemed to be in possession of the House, but may be withdrawn at any time before decision or amendment.

RULE 27. When a question is under debate, no motion shall be received but to adjourn—to lie upon the table—for the previous question—to postpone indefinitely—to postpone to a day certain—to commit or amend, which several motions shall have precedence, in the order they stand arranged; and no motion to postpone to a day certain, to commit, or to postpone indefinitely, being decided, shall be again allowed on the same day, and at the same stage of the bill or proposition.

RULE 28. When a question is postponed indefinitely, the same shall not be acted upon again during the session.

RULE 29. The previous question shall be put in this form—"Shall the main question be put?" It shall only be admitted when demanded by a majority of the members present, and until it is decided, shall preclude all amendment, and further debate of the main question; on a motion for the previous, and prior to the seconding of the same, a call of the House shall be in order; but after a majority shall have seconded such motion, no call shall be in order prior to the decision of the main question.

RULE 30. On a previous question there shall be no debate: all incidental questions of order arising after a motion is made for the previous question, and pending such motion, shall be decided, whether on appeal or otherwise, without debate.

RULE 31. Motions and reports may be committed at the pleasure of the House.

RULE 32. Any member may call for the division of a question, which shall be divided if it comprehend propositions in substance so distinct, that one being taken away, a substantive proposition shall remain for the decision of the House, a motion to strike out and insert shall be deemed indivisible, but a motion to strike out being lost, shall preclude neither amendment, nor a motion to strike out and insert.

RULE 33. No motion or proposition on a subject different from that under consideration shall be admitted under color of amendment. No bill or resolution shall at any time be amended by annexing thereto, or incorporating therewith, any other bill or resolution pending before the House.

RULE 34. When a motion has once been made, and carried in the affirmative or negative, it shall be in order for any member of the majority to move for the reconsideration thereof, on the same or any other day during the session.

RULE 35. When the reading of a paper is called for, if any objections are made, it shall be decided by a vote of the House.

RULE 36. The unfinished business in which the House was engaged at the preceding adjournment shall have the preference in the order of the day; and no motion or any other business shall be received without special leave of the House, until the former is disposed of.

RULE 37. If a question depending be lost by adjournment of the House, and revived on the succeeding day, no member who shall have spoken twice on the preceding day, shall be permitted again to speak without leave.

RULE 38. Petitions, memorials, and other papers addressed to the House, may be presented by the Speaker, or by any member, and shall not be debated or decided on the day of their being first read, unless where the House shall direct otherwise, but shall lie on the table, to be taken up in the order they were read.

RULE 39. A motion to adjourn shall be always in order; that, and the motion to lay on the table shall be decided without debate.

RULE 40. It shall be in order for the committee on enrolled bills to report at any time, when no motion is before the House. The committee can report without notice to the House, by handing the report to the principal clerk.

RULE 41. Every bill shall be introduced by motion for leave, or by order of the House, or the report of the committee. One day's notice, at least, shall be given of a motion to bring in a bill, and the member giving such notice shall state concisely the leading objects of the bill, for the information of the House, which motion may be committed.

RULE 42. Every bill shall receive three several readings, on three different days, previous to its passage, unless two-thirds of the House shall dispense with this rule.

RULE 43. The first reading of a bill shall be for information, and if opposition be made to it, the question shall be: "Shall this bill be rejected?" if no opposition be made, or the question to reject be negatived, the bill shall go for its second reading without a question.

RULE 44. Upon the second reading of a bill, the Speaker shall state, it is ready for commitment or engrossment, and if committed, then the question shall be whether to a select or standing committee, or to a committee of the whole House, the House shall determine on what day, but if the bill be ordered to be engrossed, the House shall appoint the day when it shall be read a third time.

RULE 45. After commitment and report thereof to the House, or at any time before its passage, a bill may be recommitted.

RULE 46. All bills ordered to be engrossed shall be in a fair round hand.

RULE 47. No amendment by way of rider shall be received to a bill on its third reading.

RULE 48. When a bill shall pass, it shall be certified by the clerk, noting the day of its passage at the foot thereof.

RULE 49. In forming a committee of the whole House, the Speaker, leaving the chair, shall appoint a chairman to preside.

RULE 50. Upon bills committed to a committee of the whole House, the bill shall be read throughout by the clerk, and then again read and

debated by clauses, leaving the preamble to be last considered; the body of the bill shall not be defaced or interlined, but all amendments (noting the page and line) shall be duly entered by the clerk on a separate paper, as the same shall be agreed to by the committee and so reported to the House; after report, the bill shall again be subjected to be debated and amended by clauses before a question to engross it be taken.

RULE 51. All questions, whether in committee or in the House shall be propounded in the order in which they are moved, except that in filling up blanks, the largest sum and the longest time shall be first put.

RULE 52. No motion or proposition for a tax or charge upon the people shall be discussed the day on which it is made or offered, and every such proposition shall receive its first discussion in a committee of the whole House.

RULE 53. The rules of proceeding in the House, shall be observed in a committee of the whole House, so far as they may be applicable, except the rules limiting the times of speaking, but no member shall speak twice to any question until every member choosing to speak shall have spoken.

RULE 54. No standing rule or order of the House shall be rescinded or changed without one day's notice being given of the motion therefor, nor shall any rule be suspended, except by a vote of at least two-thirds of the members present, nor shall the order of business established by the rules of the House, be postponed or changed, except by a vote of at least two-thirds of the members present.

RULE 55. No member shall absent himself from the service of the House unless he shall have leave, or be sick and unable to attend.

RULE 56. The clerk of the House shall take an oath for the true and faithful discharge of the duties of his office, to the best of his abilities, and shall be deemed to continue in office until another be chosen.

RULE 57. The duty of the door-keeper shall be to give notice to the House of all messages, to carry all messages the House may require, private as well as public; when requested to call a member of the House, he shall do so by name; he shall keep the House clean, and have a good fire made therein, by the hour of 9 o'clock in the morning, when the weather requires it.

RULE 58. It shall also be the duty of the door-keeper to attend the House during its sittings, to keep the Representative Hall and committee rooms in perfect order, and in all things to execute the commands of the Speaker and of the House from time to time.

RULE 59. It shall be the duty of the sergeant-at-arms to attend the House during its sitting, announce all messages, preserve order in the lobby of the Hall, and to execute all processes issued by authority of this House and directed to him by the Speaker.

RULE 60. No person shall be allowed to smoke within the hall or lobby thereof.

RULE 61. The clerk shall keep a journal of the decisions of the Chair, to be inserted at the close of the journal of the House.

On motion of Mr. Simpson,

The report was adopted.

Mr. Hardin offered the following resolution, which, on motion of same was adopted.

Resolved by the House, the Council concurring, That his Excellency the Governor be informed that the Legislative Assembly is now organized.

On motion of Mr. Stark,

A committee of three was appointed, to act with a like committee from the Council, to frame joint rules for the government of both Houses during the session.

Mr. Speaker appointed Messrs. Stark, Eby and Gibbs said committee.

The following message was received from the Council, by Mr. Terry, their clerk,—

MR. SPEAKER—I am directed by the President of the Council to inform you that the Council have adopted the accompanying resolution, (H. R. No. 1,) with the following amendment.

Amend House joint resolution No. 1 as follows—

After the words "Legislative Assembly," insert "has assembled in pursuance of the proclamation."

On motion of Mr. Cole,

Amendment to resolution was adopted.

The Speaker announced the standing committees as follows, viz:—

Elections.—Matlock, Consor, Holmes.

Ways and Means.—Avery, Consor, Stark.

Education.—Gibbs, Wait, Simpson.

Judiciary.—Anderson, Gibbs, Hardin, Cole Eby.

Claims.—Fulkerson, Martin, Anderson.

Military Affairs.—Whitcomb, Tuttle, Carey.

Roads and Highways.—Richardson, Curl, Mitchel.

Engrossed Bills.—Cole, Chenoweth, Fulkerson.

Enrolled Bills.—Holmes, Aubrey, Avery.

Indian Affairs.—Chenoweth, Cottle, Martin.

Commerce.—Stark, Whitcomb, Gibbs.

Printing.—Simpson, Curl, Aubrey.

Corporations.—Hardin, Wait, Holmes.

Counties.—Eby, Matlock, Richardson.

On motion of Mr. Cole,

The House adjourned until 2 P. M. this day.

AFTERNOON SESSION—2 P. M.

The House met pursuant to adjournment.

A message from the Governor, by E. Hamilton, Secretary of the Territory.

MR. SPEAKER—I am requested by his Excellency the Governor to lay before the House of Representatives this message.

On motion of Mr. Wait,

The members of the Council were invited to a seat in the hall of the House to hear read the message of the Governor.

The members of the Council having assembled and having taken

seats to the right of the Speaker, the clerk proceeded to read the message as follows:—

EXECUTIVE OFFICE,
Salem, O. T., July 26, 1852. }

Fellow Citizens of the Council and House of Representatives:—

The necessity of prompt legislation upon several matters of deep interest to the Territory has impelled me to exercise the power conferred upon me by law, of convening you together in extra session.

It is a subject of congratulation, that the question of the seat of government, upon which, for some time past there has been an animated conflict of opinion, not only between the authorities, but between the citizens of the Territory, has been determined by a tribunal, whose authoritative voice no one will presume to disobey; and it is my ardent and sincere desire, as I doubt not it is also that of every good citizen, that hereafter no vexed question may arise to disturb energetic and harmonious action, so that by working together for the common good, we may successfully develop the affluent resources of the fertile valleys and extended coasts of Oregon. It now becomes our imperative duty as it is our true interest to carry out, in good faith, the provisions of law upon the subject of our public buildings, and make use of all the legitimate means within our power for their speedy erection.

Congress by section 15 of "an act to establish the Territorial Government of Oregon," approved Aug. 14, 1848—appropriated the sum of five thousand dollars to the Territory of Oregon, to be there applied by the Governor to the erection of suitable buildings at the seat of government.

That body also by section three of "an act to make further appropriations for public buildings in the territories of Minnesota and Oregon," approved June 11, 1850, appropriated the further sum of twenty thousand dollars to be applied by the Governor and Legislative Assembly of Oregon, to the erection of suitable public buildings at the seat of government of said territory; and by section first of the same act, appropriated the sum of twenty thousand dollars to be applied by the Governor and Legislative Assembly of Oregon, at such place as they may select in said Territory, for the erection of a penitentiary.

The sum of twenty-five thousand dollars has thus been granted by the United States for the erection of public buildings at the seat of government, and twenty thousand dollars for the erection of a penitentiary.

No part of this money has as yet been expended. It has been idle since its appropriation, and has been of no service whatever. I have refrained from applying the sum first granted by Congress by its act of the 14th of Aug. 1848, in the hope that by the action of the Territorial Legislature, I should be enabled to expend it at a place designated by the Legislative Assembly, and in conjunction with the appropriation subsequently made for the same object.

The amount of the first appropriation is so small, that of itself, it would go but a little way towards accomplishing any useful end, but when combined with the additional one, it would serve a valuable purpose towards the erection of buildings sufficiently large and commodious for the public wants at the territorial capital.

It may be a subject of grave doubt to what extent the Assembly's act to provide for the selection of places for the location and erection of the public buildings of the Territory of Oregon" has been confirmed by the joint resolution which has recently passed both Houses of Congress. But even if the whole Territorial act has been confirmed, further action by the Legislative Assembly is necessary in order to supply the defects in the acts. No site was designated by that act upon which to erect the buildings at the seat of government, nor has any provision ever been made by law for the selection and purchase of the grounds thereat. By the fourth section of the act referred to, it is enacted that John Force, H. M. Waller and R. C. Geer, be and they are hereby constituted a board of commissioners to superintend the erection of buildings at the place designated in the first section of this act, at the seat of government, and the said commissioners or a majority of them shall agree upon a plan of said buildings and shall issue proposals, giving two months notice thereof, and contract for the erection of said buildings without delay. And the said commissioners shall agree upon one of their number to be acting commissioner, and said acting commissioner shall give bond to the United States in the sum of twenty thousand dollars to be approved by the Governor of this Territory for the faithful performance of his duty; and said bond shall be filed in the office of the Secretary of this Territory. By section 5, it is enacted that it shall be the duty of said acting commissioner to superintend the raising and finishing said buildings, and the said acting commissioner shall have power to call the said board of commissioners together for the purpose of transacting business on the subject. It will be seen from these sections that the commissioners are simply clothed with power to agree upon a plan for the public buildings, and to contract for and superintend the erection of them at the seat of government. They are not empowered by the statute to determine nor contract for the site or grounds on which to make the erection. Their powers or duties relate to the buildings only, and have no connection with the land. Being of statutory creation, the commissioners can exercise no other powers than those conferred by the statute itself. Before they can properly proceed to the discharge of their duties, it is incumbent on the Assembly to select and obtain or make provision for the selection and obtainment of proper grounds.

It would be useless for them to contract, for and impossible for them to superintend the erection of the buildings until it is determined on what particular site they are to be erected.

I also respectfully suggest that the act gives no authority to any of the commissioners to draw money from the several sums appropriated by Congress for the object referred to, nor does it in any way limit the amount to be expended under their direction. I recommend therefore that provision be made by law for the selection and purchase of ground at the seat of government, and for clearing up all ambiguities in which the subject may at present be involved, so that all officers charged with the execution of any trust under said location act may attend to their duties and carry out the provisions of the law according to the true intent and meaning thereof. The immediate want of a penitentiary is so obvious that it seems difficult to imagine how two minds can differ concerning it. I therefore hope that effectual steps will be taken for its speedy erection.

The re-arrangement of the judicial districts is another matter to which your attention is invited. The rapid increase of population in the southern and also in the northern parts of the Territory requires that provision be made for the administration of law, at such points as shall be convenient to the people. At present in the whole region south of the Calapooia mountain, Umpqua County is the only place in which district Courts are authorized to be held. This cannot fail to produce serious inconvenience and subject to unnecessary expense many who from any cause are obliged to attend court. I recommend therefore to the Legislative Assembly to lay out anew the judicial districts in such way as will best comport with the true interests of the people in the various sections of the country. And inasmuch as by reason of absence, sickness or inability the proper judge of the district may fail to attend and hold his courts, I recommend also that some general law be passed authorising in such cases one of the judges of the other districts to supply his place so as to prevent a failure of courts.

By the Assembly convened at Salem last winter, an act was passed establishing Thurston County, north of the Columbia river. On an inspection of this, you will perceive that by an oversight no provision was made for holding courts in it, or for annexing it to any other county for judicial purposes; nor was it organised except by the title of the act. A recent brief visit to that admirable portion of the Territory now rapidly filling up with an active and intelligent population, satisfied me that immediate steps should be taken to secure to such a community the right of protection by law, in their various avocations; especially, as numerous Indian tribes reside within the limits of the county and a revenue district of the United States is embraced in it, where important commercial questions may require prompt adjudication.

I respectfully ask you to bestow your serious attention and consideration upon the present state of the laws of the Territory. Nothing is more important to the people than to have a complete system of laws adapted to the present condition and future developements of the country. Complaints are made against the present statutes as being in many instances incongruous with each other, and so uncertain, so defective, and so unsuitable as to fail to meet the just wants of the people.

As the citizen looks to the law for the regulation of his civil conduct, that law should be known in order that it should be observed. Great difficulty exists in ascertaining what is in fact the law. By the act of organization, congress adopted the laws of the provisional government with certain exceptions. The provisional government in its day adopted the laws of Iowa so far as they were applicable. Since that time the Territorial Legislature have passed numerous acts of the efficacy of which there exists much diversity of opinion. Many of the laws now in force and which had their origin in the days of the provisional government have never been printed. The doubt and obscurity which hang over many laws regulating the rights and duties of the citizens must in the nature of things produce frequent disputes and lead to litigation between the inhabitants if not to consequences still more deplorable.

The delays that necessarily attend the administration of justice which the present laws themselves create is another reason why some new legislative action should be taken on the subject. In a country like Oregon where many of the inhabitants are so transitory in their habits where

the main security that exists for the collection of debts or redress of private injuries is personal responsibility, the speediest and most effectual remedy should be provided for every right withheld and every wrong done. Unless such means be furnished the substantial and permanent citizens of the country are liable to be at the mercy of every unprincipled adventurer who by art or fraud has induced them to permit property to be reduced into his possession.

I recommend, therefore, the appointment at the present session of a board of commissioners to revise the present laws of the Territory, whose duty it shall be to prepare and report at the next regular session a complete body of statute laws such as they may deem suited to the condition and wants of the people.

As this would require much time and research, it is quite improbable that the work could be accomplished at any single session. After the revisers make the report the Legislature could take such action upon the laws thus proposed as in their wisdom they might think proper, enacting them as reported or modifying them in some respects or changing them altogether. This seems to be the only practical or effectual mode of relieving the country from its present embarrassments. It is the course which most if not all the old states and other Territories have from time to time adopted in order to accomplish a needed reform in their systems.

The present Legislature cannot in my judgement build for themselves a nobler monument nor win a more profound and lasting gratitude from their fellow citizens nor accomplish an object more beneficial to themselves than by the enactment of a complete and wholesome system of laws suited to the condition of a great agricultural, mining and commercial people such as we are beginning, and are destined to be.

There are other subjects upon which legislation is greatly needed but which may be left without serious detriment to the regular session. If however it should be the pleasure of the Assembly to take action upon other matters, it will give me great pleasure to do anything in my power to aid in any undertaking which will tend to promote the common weal.

You have been assembled at a period of the year when your private avocations most require your attentions. It was therefore with reluctance that I exercised the power of convoking you. Nothing but a deep sense of the importance of immediate legislative action would have induced me to take a step which would subject you to any personal inconvenience. I entertain, however, too high an opinion of your patriotic feeling to suppose that you would be unwilling to make any reasonable sacrifices of your private interests, for the sake of advancing the general good. I tender to you assurances of my strong desire to co-operate cordially with you in all measures that will promote the good of the people and advance the interests and character of our growing territory.

Confidently relying upon your disposition to discharge with fidelity the duties of the honorable trust which has been committed into your hands by the people whom you represent, I invoke upon your deliberations the blessings of that benignant Providence who has already given us so many signal manifestations of his favor.

JNO. P. GAINES.

The message being read, the members of the Council withdrew.

On motion of Mr. Cole,

That 150 copies of the message be printed for the use of the members of the Legislative Assembly.

Mr. Avery moved an amendment,

That 50 copies be printed.

And on the question of the adoption of the amendment, it was decided in the affirmative.

On motion of Mr. Simpson,

The House adjourned until 9 o'clock A. M. to-morrow.

WEDNESDAY, July 28th, 1852.

The House met pursuant to adjournment.

Present as yesterday.

The motion of yesterday on printing the message of the Governor was taken up as amended, and the question being,

Shall the motion as amended be adopted?

Was decided in the affirmative.

Petitions being in order.

Mr. Matlock offered a petition from Clackamas county, praying for a repeal of a law of last session granting James B. Stephens exclusive privilege of ferrying the Willamette River for ten years, for two miles in length, opposite to Portland, which,

On motion of Mr. Cole,

Was laid on the table.

Mr. Martin presented a petition praying for a law by which penitentiary convicts may be delivered by the proper sheriff to some person or officer engaged in the erection of the penitentiary; and that the expenses which have or may occur be paid out of the Territorial Treasury, which,

On motion of Mr. Stark.

Was laid on the table.

On motion of Mr. Stark.

The sergeant-at-arms was directed to provide suitable desks on the floor of the House, for the use of all persons who may be accredited to the Speaker of this House for the public press.

Mr. Cole offered the following preamble and resolution

WHEREAS, the Legislative Assembly of the Territory of Oregon has convened in accordance with a proclamation made by the Governor, and finding no extraordinary business, and nothing which might not more properly be brought forward at a regular session; therefore be it

Resolved, That the Legislative Assembly adjourn *sine die*, on the 28th of July, 1852.

On motion of same

That said preamble and resolution be adopted.

Mr. Stark offered the following amendment:

Strike out after the enacting clause and insert,—

Resolved, That so much of the message of the Governor delivered to the House on the 27th inst., by the hands of the Secretary of the Territory, as relates to the subject of the public buildings, be referred to the committee on ways and means, and that so much as refers to the re-arrangement of the judicial districts, be referred to the committee on the judiciary—and that all other subjects therein referred to, be referred to a committee of the whole House.

Which amendment, on decision of the chair, was declared out of order by a standing rule of the House—(rule 33d.)

Pending the question on the adoption of the motion for adjournment *sine die*,

On motion of Mr. Avery,

House adjourned until 2 P. M. this day.

AFTERNOON SESSION, 2 P. M.

The House met pursuant to adjournment.

The Speaker withdrew from the chair, calling Mr. Fulkerson thereto.

The House resumed the consideration of the preamble and resolution, offered in the forenoon by Mr. Cole, and pending when the House adjourned.

Mr. Anderson offered an amendment to said resolution as follows:

That the words "28th" be erased, and 29th inserted, which

On motion of same,

Was adopted.

And the question being called for, on the question,

"Shall the resolution as amended be adopted?"

On motion of Mr. Simpson,

The House was called.

Mr. Harding, Speaker, being absent,

On motion of Mr. Holmes,

The sergeant-at-arms was directed to inform Mr. Harding that his presence in the House was requested.

Mr. Harding having appeared, and having resumed the chair, the question was stated,

And on the question—

"Shall this resolution pass?"

The yeas and nays were demanded, with the result as follows:

YEAS—Messrs. Anderson, Avery, Aubrey, Curl, Cottle, Consor, Eby, Fulkerson, Gibbs, Holmes, Hardin, Richardson, Simpson and Mr. Speaker—15.

NAYS—Messrs. Carey, Chenoweth, Martin, Matlook, Mitchel, Stark, Tuttle, Wait and Whitcomb,—9.

Absent, Mr. Curtis.

So the resolution as amended was adopted.

On motion of Mr. Avery,

The House adjourned until 8 A. M. to-morrow.

THURSDAY, July 29th, 1852.

The House met pursuant to adjournment.

Roll called—a quorum was present.

The journal of yesterday was read and approved.

The following message was received from the Council, by Mr. Terry, their clerk.

MR. SPEAKER—I am directed by the President of the Council to inform you that the Council have appointed a committee consisting of Messrs. Lovejoy and Phelps on the part of the Council, to act with a like committee on the part of the House, to frame joint rules for the government of both Houses during the session.

And the following—

MR. SPEAKER—I am directed by the President of the Council to inform you that the Council have concurred in the adoption of the accompanying preamble and resolution, House joint resolution No. 3, which is herewith transmitted to the House where it originated.

On motion of Mr. Avery,

The Council were informed that the House was now ready for adjournment *sine die*.

On motion of Mr. Anderson,

At 11 o'clock A. M. the House adjourned *sine die*.

B. F. HARDING,

Speaker of the House of Representatives.

RICHARD J. WHITE, Clerk of the House.